IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

MONDAY, THE 10TH SEPTEMBER 2007 / 19TH BHADRA 1929

Bail Appl..No. 5341 of 2007()

CRIME NO.546/07 OF KASARAGOD POLICE STATION

PETITIONER/ACCUSED:
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1. UMMAR A.M., S/O. MOHAMMED HAJI,
ADUKKATHIL HOUSE, HIDAYATHNAGAR, KASARAGOD.

2. HARIS, S/O. ABDUL KADAR,
MAKYAR HOUSE, THALAPPADI, MANGALORE, D.K.

BY ADV. SRI.T.B.SHAJIMON

RESPONDENTS: COMPLAINANT:

STATE OF KERALA,
REP. BY THE SUB INSPECTOR OF POLICE,
KASARAGOD POLICE STATION, REP. BY THE
PUBLIC PROSECUTOR, ERNAKULAM.

BY P.P. SRI.JAI GEORGE.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 10/09/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 5341 OF 2007

Dated this the 10th day of September, 2007

ORDER

Application for anticipatory bail. Petitioners are accused 1 and 2. Altogether, there are two accused persons. The petitioners face allegations, inter alia, under Sections 326 and 447 of the IPC. The crux of the allegations is that on 11/8/07 at 00.30 hours the petitioners armed with deadly weapons (wooden sticks) assaulted the de facto complainant and caused injuries to him, including a fracture. Prior personal animosity is the alleged cause.

2. The learned counsel for the petitioners submits that the petitioners are absolutely innocent of the allegations raised. Political animosity is prompting the de facto complainant to raise false allegations against the petitioners. In these circumstances, it is prayed that anticipatory bail may be granted to the petitioners.

3. This application is opposed by the learned Public Prosecutor. The learned Public Prosecutor submits that the petitioners are named in the F.I.R. The wound certificate shows clearly that the victim has suffered a fracture. The weapon used is a dangerous wooden stick. There is nothing to show that the alleged political differences have anything to do with the incident in question, submits the learned Public Prosecutor.

4. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am unable to discern any features in this case which would justify or warrant the invocation of the extraordinary equitable discretion under Sec.438 of the Cr.P.C. This, I agree with the learned Public Prosecutor, is a fit case where the petitioners must surrender before the Investigating Officer or the learned Magistrate having jurisdiction. They must then seek regular bail in the ordinary course.

5. In the result, this bail application is dismissed; but with the observation that if the petitioners surrender before the Investigating Officer or the learned Magistrate and seek bail, after giving sufficient prior notice to the Prosecutor in charge of

the case, the learned Magistrate must proceed to pass appropriate orders on merits and expeditiously.

Sd/-

(R. BASANT, JUDGE)

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P.S. to Judge